JUVENILE JUSTICE COMMITTEE

MEETING PACKET

Tuesday, April 4, 2006
10:15 – 11:00 AM
214 Capitol

Revised

Allan G. Bense
Speaker

Faye Culp
Chair

FLORIDA HOUSE OF REPRESENTATIVES

Allan G. Bense, Speaker

Juvenile Justice Committee

Faye B. Culp
Chair

Mitch Needelman
Vice Chair

Meeting Agenda
Tuesday, April 4, 2006
10:15-11:00 AM
214 Capitol

I. **Opening remarks by Chair Culp**

II. **Roll call**

III. **Consideration of the following committee bill: HB 27 Juvenile Delinquents by Antone**

IV. **Consideration of the following committee bill: HB 403 CS School Attendance by McInvale**

V. **Consideration of the following committee bill: HB 605 CS Public Records by Planas**

VI. **Closing remarks by Chair Culp**

VII. **Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 27 Juvenile Delinquents
SPONSOR(S): Antone
TIED BILLS: **IDEN./SIM. BILLS:** SB 1668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice Committee		White	White
2) Fiscal Council			
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

Florida statute does not currently address issues regarding the citizenship of delinquents referred to the Department of Juvenile Justice (DJJ).

The bill amends state delinquency law to require a juvenile probation officer to: (a) determine during the intake process whether each child referred to the DJJ is, or is suspected of being, illegally in the United States (U.S.); and (b) to report each child found to be, or suspected of being, illegally in the U.S. to the DJJ and the federal Bureau of Customs and Border Protection.

The bill also requires the DJJ to establish an automated, centralized database to collect citizenship information for all children referred to the DJJ and to establish methods for sharing this information with specified federal and state law enforcement agencies and the state court system.

Further, the bill authorizes delinquency courts that have jurisdiction of an adjudicated, foreign delinquent child, who is not in the U.S. in a legal status, to order: (a) that the child be returned to his or her country of origin; and (b) the DJJ to transfer physical custody of the child to the federal Bureau of Customs and Border Protection for removal from this country.

The bill provides an effective date of July 1, 2006.

The DJJ states that the fiscal impact of this bill indeterminate. *See* Fiscal Analysis and Economic Impact Statement, *infra*.

The bill has several drafting issues, including that it appears to unconstitutionally authorize state delinquency courts to order the return of an adjudicated delinquent child, who is illegally in this country, to his or her country of origin. *See* III. A. CONSTITUTIONAL ISSUES and III. C. DRAFTING ISSUES OR OTHER COMMENTS, *infra*. It is anticipated that an amendment will be filed to address these issues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- The bill increases the responsibilities of the Department of Juvenile Justice (DJJ) by requiring it to determine if a child referred to it is, or is suspected of being, in the United States (U.S.) illegally, and if so, to report that child to the federal Bureau of Customs and Border Protection. It also increases the DJJ's rulemaking authority by requiring it to adopt rules relating to its collection of citizenship information for all children referred to it. Further, It increases the authority of courts to order that an adjudicated, foreign delinquent child, who is illegally in the U.S., be returned to his or her country of origin.

Maintain public security – The bill increases the likelihood that federal immigration authorities will be made aware of delinquents who are illegally in the U.S.

B. EFFECT OF PROPOSED CHANGES:

Immigration and Nationality Act: The Federal Immigration and Nationality Act (INA)[1] governs the admission of all foreigners to the U.S. The INA defines an "alien" as any person not a citizen or national[2] of the U.S.[3] and sets forth the rules for admission to, and exclusion from, the U.S.

The chief categories of admission status under the INA for aliens include the following:

- Nonimmigrant visa status meaning the admission is for a period of time prescribed by the U.S. Attorney General in regulation.[4] An alien who does not depart at the expiration of this period of time subjects himself or herself to deportation.[5]

- Immigrant visa status meaning the person is a lawful permanent resident of the U.S.[6] These persons possess Alien Registration Receipt Cards, popularly referred to as green cards.

- Naturalized citizen meaning the person has renounced his or her former nationality and is granted all privileges of a native citizen in the U.S., except that he or she may not become President of the U.S.[7]

- Refugee status meaning the person is not physically present in the U.S. and is seeking admission based upon grounds that he or she is unable or unwilling to return to their country of nationality because of a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.[8]

- Asylee status meaning the person is physically present in the U.S. and is seeking admission based upon a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion, if made to return to his or her country of nationality or his or her last place of habitual residence.[9]

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[1] Immigration and Naturalization Act of 1952, 8 U.S.C.A. §§ 1101 et seq., as amended.
[2] A "national" is a citizen of the U.S. or a person who, though not a citizen of the U.S., owes permanent allegiance to the United States. Presently, the only noncitizen nationals of the U.S. are residents of the American Samoa and Swains Island. *The ABC's Of Immigration - Immigration Terminology, Part I*, Siskind's Immigration Bulletin, http://www.visalaw.com/03aug1/2aug103.html.
[3] 8 U.S.C.A. § 1101(a)(3).
[4] 8 U.S.C.A. § 1184(a).
[5] 8 U.S.C.A. § 1227(a)(1).
[6] 8 U.S.C.A. § 1101(15).
[7] 8 U.S.C.A. §§ 1422.
[8] 8 U.S.C.A. § 1101(a)(42).
[9] 8 U.S.C.A. § 1158(a).

Pursuant to the INA, an alien is subject to deportation if he or she falls within one or more of the statutory classes of deportable aliens.[10] The classes of deportable aliens include nonimmigrant aliens who do not maintain the conditions attached to their admission status[11] and aliens who commit specified crimes.[12] [13]

Bureau of Immigration and Customs Enforcement: The Bureau of Immigration and Customs Enforcement (ICE) within the Department of Homeland Security is responsible for the identification, apprehension and removal of illegal aliens from the U.S., and is further authorized to detain deportable aliens and to place such aliens in removal, i.e., deportation, proceedings before a federal immigration judge.[14]

ICE operates the Law Enforcement Support Center (LSEC) and its website states:

> Located in Williston, Vermont, the LESC operates 24 hours a day, 365 days a year, to supply real-time assistance to law enforcement officers who are investigating or have arrested foreign-born individuals involved in criminal activity. The primary users of the LESC are state and local law enforcement officers seeking information about aliens encountered in the ordinary course of their daily enforcement activities. The LESC receives queries from federal, state, and local correctional and court systems seeking information about individuals in custody or encountered elsewhere in a criminal justice system. Law Enforcement officers have immediate access to alien records entered in the NCIC (National Crime Information Center) and immigration information from every alien file maintained by the Department of Homeland Security – approximately 93 million records – by accessing the IAQ (Immigration Alien Query) database through the NCIC.[15]

Law enforcement officials with probable cause to believe that an alien is in violation of U.S. immigration law may contact the LSEC to determine whether ICE wishes to take custody of the alien.[16]

Delinquency and Citizenship in Florida: Chapter 985, F.S., which governs delinquency matters in Florida, does not currently address issues regarding the citizenship of children referred to the DJJ.

In its bill analysis,[17] the DJJ indicates that its juvenile probation officers (JPOs) currently ask each child referred to the DJJ during intake whether he or she is a U.S. citizen. According to the DJJ, if the child answers yes, the intake process is completed based on the assumption that the child is in fact a U.S. citizen. If the answer is no, the DJJ notifies the child of his or her right to have the foreign consulate contacted when they are arrested and/or detained.

The DJJ analysis also indicates that it is difficult for a JPO to determine the true citizenship status of a child, as there is typically little documentation available on this issue. To overcome this barrier, the Secretary of the DJJ requested that law enforcement agencies in this state screen the names of each child taken into custody in the LSEC database; however, law enforcement agencies do not consistently

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[10] 8 U.S.C.A. § 1227.
[11] 8 U.S.C.A. § 1227(a)(1)(C).
[12] *See* 8 U.S.C.A. § 1227(a)(2) (providing that an alien may be deportable if he or she has committed crimes that include specified moral turpitude offenses, aggravated felonies, drug offenses, domestic violence and stalking offenses, or child abuse).
[13] As stated in a law review article, the federal statute defining deportable crimes seeks to incorporate by reference hundreds of state and federal criminal offenses. *FINALITY OF CONVICTION, THE RIGHT TO APPEAL, AND DEPORTATION UNDER MONTENEGRO V. ASHCROFT: THE CASE OF THE DOG THAT DID NOT BARK,* 40 USFLR 241, 244-245, Fall 2005.
[14] "Prior to the September 11 attacks, immigration services and enforcement were handled by the Immigration and Naturalization Service ("INS"). After the attacks, the INS was abolished and its responsibilities were transferred to the new Department of Homeland Security, which splits immigration and naturalization services and immigration enforcement between United States Citizenship and Immigration Services and ICE, respectively." *Id.* at 278.
[15] http://www.ice.gov/graphics/news/factsheets/081204lesc.htm, as accessed on April 2, 2006.
[16] *THE QUINTESSENTIAL FORCE MULTIPLIER: THE INHERENT AUTHORITY OF LOCAL POLICE TO MAKE IMMIGRATION ARRESTS,* 69 ALBLR 179, 181, 2005-2006.
[17] Department of Juvenile Justice Analysis for SB 1668, February 27, 2006.

perform this screening. Further, the LSEC database is limited in that it does not contain the names of all illegal aliens in the U.S.

The DJJ indicates that when a LSEC database screening indicates that a child is an illegal alien that DJJ staff call the appropriate authorities within the Department of Homeland Security; however, the typical result is a voice mail asking for a message. Staff leave a detailed message, but are rarely called back. Further, when a person does answer the call, the response is, "frequently that delinquents are not a high priority."[18]

Effect of bill: *The bill amends s. 985.21, F.S., to require a JPO to: (a) determine during the intake process whether each child is, or is suspected of being, illegally in the U.S.; and (b) to report each child found to be, or suspected of being, illegally in the U.S. to the DJJ and the U.S. Bureau of Customs and Border Protection if that child is the subject of a petition alleging that he or she has committed an act that would be a crime if committed by an adult.*

The bill also requires the DJJ to:

- *Establish a centralized, automated intake and screening database to collect citizenship information for all children referred to the DJJ.*
- *Establish methods and parameters for the collection of citizenship information from the U.S. Bureau of Customs and Border Protection, the Department of Law Enforcement, state law enforcement agencies, and the state court system.*
- *Share information in its database with federal, state, and local law enforcement agencies and prosecutors and courts.*
- *Adopt rules to administer the aforementioned requirements.*

Finally, the bill amends s. 985.231, F.S., to specify that a court that has jurisdiction of an adjudicated delinquent child, who resides in, or is a citizen of, a foreign country, and who is not in this country in a legal status, may: (a) notify the U.S. Bureau of Customs and Border Protection of the adjudication; (b) order that the child be returned to his or her country of origin; and (c) order the DJJ to transfer physical custody of the child to the U.S. Bureau of Customs and Border Protection for removal from this country.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 985.21, F.S., to require the DJJ to: report children found to be, or suspected of being, illegally in the U.S.; develop a centralized, automated database to collect citizenship information; and adopt rules to share database information with specified agencies and individuals.

Section 2. Amends s. 985.231, F.S., to authorize a court with jurisdiction of an adjudicated delinquent, who is not in the U.S. in a legal status, to notify the federal government, order the child's return to his or her country, and require the DJJ to transfer custody of the child to the federal government.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None apparent.

[18] Department of Juvenile Justice Analysis for SB 1668 at p. 3.

2. Expenditures:

According to the DJJ, "an accurate fiscal note [for this bill] is impossible to do" because it cannot comply with the bill's requirement that it establish a centralized, automated intake and screening database to collect information concerning the citizenship of children referred to the department. The DJJ indicates that automated access to the LSEC database is not available; instead, each child's name must be manually input in the NCIC for screening by the LSEC database.

Further, the DJJ's fiscal analysis states:

> The workload associated with this bill will be substantial and might require additional JPOs to cover caseloads, which will inevitably take longer to process. It is impossible to determine at this time how many JPOs would be necessary or how much longer the process would take with each case. Additionally, the bill would necessitate the installation of new workstations that must meet specific security and access restrictions monitored in Florida by FDLE. Some of these requirements include a secure room, with limited access, and limited visibility. An individual must not be able to see the workstation from a window. FDLE also requires that individuals who have access to the system be formally trained. The training is approximately four hours with an hour-long test at the end. Each intake JPO would be required to take this training course and corresponding test to access the ICE database through the NCIC/FCIC database.[19]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None apparent.

2. Expenditures:

None apparent.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None apparent.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

The bill provides that Florida delinquency courts may order the return of an adjudicated, foreign delinquent child who is illegally in the U.S. to his or her country of origin. Congress, however, has

[19] *Id.* at p. 6.

exclusive authority over immigration and naturalization and matters of deportation are solely within province of the federal government. Accordingly, this provision of the bill appears to be preempted by federal immigration law.[20] [21]

B. RULE-MAKING AUTHORITY:

The bill requires the DJJ to adopt rules relating to the establishment of: (a) a centralized, automated database for the collection of citizenship information for all children referred to the DJJ; (b) methods and parameters for the collection of citizenship information from various federal, state, and local agencies; and (c) methods for sharing citizenship information with federal, state, and local law enforcement agencies and prosecutors and courts.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill refers to the U.S. Bureau of Customs and Border Protection several times; however, the correct reference is the Bureau of Immigration and Customs Enforcement, as this Bureau is currently responsible for the identification, apprehension and removal of illegal aliens from the United States.

The bill requires the DJJ to establish a centralized, automated intake and screening database to collect information concerning the citizenship of children referred to the department. The DJJ indicates, however, that it cannot comply with this requirement because automated access to the LSEC database is not available. Instead, each child's name must be manually input into the NCIC for screening by the LSEC database.

The bill authorizes a state delinquency court to order the DJJ to transfer physical custody of specified children to the U.S. Bureau of Customs and Border Protection. The DJJ, however, has no authority to require the federal government to accept custody of a child.

Finally, as discussed *supra* in the section of this analysis entitled, "A. Constitutional Issues" the bill unconstitutionally authorizes state delinquency courts to order the return of an adjudicated, foreign delinquent child who is illegally in the U.S. to his or her country of origin.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[20] *See* Immigration and Naturalization Act of 1952, 8 U.S.C.A. §§ 1101 et seq., as amended.

[21] *See Torros v. State*, 415 So.2d 908 (Fla. 2d DCA 1982) (court could not order illegal alien to be deported to Cuba if he violates probation because of preemption of federal law; however, court could recommend deportation to federal authorities); and *I.H. v. State,* 656 So.2d 622 (Fla. 2nd DCA 1995)(court could not order deportation of child upon completion of commitment, but could recommend deportation to the federal authorities).

A bill to be entitled

An act relating to juvenile delinquents; amending s. 985.21, F.S.; requiring a juvenile probation officer to determine the country of citizenship of each child referred to the Department of Juvenile Justice; requiring the juvenile probation officer to report the information to the department and the United States Bureau of Customs and Border Protection; requiring the department to develop a centralized, automated database to collect information on the country of citizenship for children referred to the department; directing the department to make the information available to certain federal, state, and local agencies; requiring the department to adopt rules; amending s. 985.231, F.S.; requiring that a juvenile court under specified circumstances notify the United States Bureau of Customs and Border Protection of the adjudication of a child, order that the child be returned to his or her country of origin, and order the department to transfer the physical custody of the child to the United States Bureau of Customs and Border Protection for the appropriate processing to remove the child from this country; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 985.21, Florida Statutes, is amended to read:

985.21 Intake and case management.--

(1)(a) During the intake process, the juvenile probation officer shall screen each child or shall cause each child to be screened in order to determine:

1. Appropriateness for release, referral to a diversionary program including, but not limited to, a teen-court program, referral for community arbitration, or referral to some other program or agency for the purpose of nonofficial or nonjudicial handling.

2. The presence of medical, psychiatric, psychological, substance abuse, educational, or vocational problems, or other conditions that may have caused the child to come to the attention of law enforcement or the department ~~of Juvenile Justice~~. The child shall also be screened to determine whether the child poses a danger to himself or herself or others in the community. The results of this screening shall be made available to the court and to court officers. In cases where such conditions are identified, and a nonjudicial handling of the case is chosen, the juvenile probation officer shall attempt to refer the child to a program or agency, together with all available and relevant assessment information concerning the child's precipitating condition.

3.a. Whether the child is, or is suspected of being, in the United States illegally. If the child is found to be, or is suspected of being, in the United States illegally, notwithstanding any other law, the juvenile probation officer shall report to the department and the United States Bureau of Customs and Border Protection that the child is a juvenile who is the subject of a petition alleging that he or she committed

an act that would be a crime if committed by an adult. The report must include the nature of the offense the child is alleged to have committed.

b. The department shall develop a centralized, automated intake and screening database to collect information concerning the country of citizenship for children referred to the department in order to facilitate the exchange of information pursuant to the intent and purpose of this chapter. The department shall establish methods and parameters by which citizenship information and data are collected from the United States Bureau of Customs and Border Protection, the Department of Law Enforcement, law enforcement agencies in this state, and the state court system. Information developed in or through the use of the database shall be made available to federal, state, and local law enforcement agencies and prosecutors and courts in a manner defined by the department and as allowed by state or federal law or rule. The department shall adopt rules to administer the provisions of this sub-subparagraph.

(b)~~3.~~ The department ~~of Juvenile Justice~~ shall develop an intake and a case management system whereby a child brought into intake is assigned a juvenile probation officer if the child was not released, referred to a diversionary program, referred for community arbitration, or referred to some other program or agency for the purpose of nonofficial or nonjudicial handling, and shall make every reasonable effort to provide case management services for the child; provided, however, that case management for children committed to residential programs may be transferred as provided in s. 985.316.

(c)~~4.~~ In addition to duties specified in other sections and through departmental rules, the assigned juvenile probation officer shall be responsible for the following:

1.~~a.~~ Ensuring that a risk assessment instrument establishing the child's eligibility for detention has been accurately completed and that the appropriate recommendation was made to the court.

2.~~b.~~ Inquiring as to whether the child understands his or her rights to counsel and against self-incrimination.

3.~~c.~~ Performing the preliminary screening and making referrals for comprehensive assessment regarding the child's need for substance abuse treatment services, mental health services, retardation services, literacy services, or other educational or treatment services.

4.~~d.~~ Coordinating the multidisciplinary assessment when required, which includes the classification and placement process that determines the child's priority needs, risk classification, and treatment plan. When sufficient evidence exists to warrant a comprehensive assessment and the child fails to voluntarily participate in the assessment efforts, it is the responsibility of the juvenile probation officer to inform the court of the need for the assessment and the refusal of the child to participate in such assessment. This assessment, classification, and placement process shall develop into the predisposition report.

5.~~e.~~ Making recommendations for services and facilitating the delivery of those services to the child, including any mental health services, educational services, family counseling

services, family assistance services, and substance abuse services. The juvenile probation officer shall serve as the primary case manager for the purpose of managing, coordinating, and monitoring the services provided to the child. Each program administrator within the Department of Children and Family Services shall cooperate with the primary case manager in carrying out the duties and responsibilities described in this section.

The department ~~of Juvenile Justice~~ shall annually advise the Legislature and the Executive Office of the Governor of the resources needed in order for the intake and case management system to maintain a staff-to-client ratio that is consistent with accepted standards and allows the necessary supervision and services for each child. The intake process and case management system shall provide a comprehensive approach to assessing the child's needs, relative risks, and most appropriate handling, and shall be based on an individualized treatment plan.

(d) ~~(b)~~ The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

1. An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child's parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the

detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child's treatment needs, and classification regarding the child's risks to the community and, for a serious or habitual delinquent child, shall include the assessment for placement in a serious or habitual delinquent children program pursuant to s. 985.31. The completed multidisciplinary assessment process shall result in the predisposition report.

2. A classification system that assigns a relative risk to the child and the community based upon assessments including the detention risk assessment results when available to classify the child's risk as it relates to placement and supervision alternatives.

3. An admissions process that facilitates for each child the utilization of the treatment plan and setting most appropriate to meet the child's programmatic needs and provide the minimum program security needed to ensure public safety.

Section 2. Paragraph (a) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.--

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a probation program or a

postcommitment probation program under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of postcommitment probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for

children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the

postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of probation or postcommitment probation. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of probation or postcommitment probation, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation or postcommitment probation, the court shall enter an order revoking, modifying,

or continuing probation or postcommitment probation. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation or postcommitment probation, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the department at a restrictiveness level defined in s. 985.03. Such commitment must be for the

purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is eligible to attend public school following commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the department, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be

determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the department for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the department for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

11. If the residence of a child adjudicated delinquent is in a foreign country or if the child adjudicated delinquent is a citizen of a foreign country and is not in this country in a legal status, notify the United States Bureau of Customs and Border Protection of the adjudication of the child, order that the child be returned to his or her country of origin, and order the department to transfer the physical custody of the child to

the United States Bureau of Customs and Border Protection for the appropriate processing to remove the child from this country.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 403 CS School Attendance
SPONSOR(S): McInvale
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	7 Y, 0 N, w/CS	Beagle	Mizereck
2) Juvenile Justice Committee		White	White
3) Education Appropriations Committee			
4) Education Council			
5)			

SUMMARY ANALYSIS

Florida law enables a student to terminate school enrollment prior to high school graduation at age 16. Current law and State Board of Education (SBE) rule provide extensive procedures for the recording and enforcement of school attendance.

House bill 403 clarifies existing law by stating that students aged 16 or older remain subject to compulsory school attendance until a formal declaration of intent to terminate school enrollment is filed. The bill requires school districts to conduct an exit interview with each student who declares their intent to terminate school enrollment.

The bill authorizes district school boards to adopt attendance policies that allow accumulated unexcused tardies and early departures from school to be recorded as unexcused absences. The bill also authorizes district school boards to require referral to a school child study team (CST) when a student has fewer absences than currently required by law.

The bill provides that district school superintendents are responsible for supporting law enforcement efforts to enforce school attendance.

The bill revises the current list of interventions that may be implemented by CSTs by requiring three specific interventions, and making others optional.

The bill has an effective date of July 1, 2006.

This bill does not appear to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill grants district school boards greater authority in adopting student attendance policies. The bill requires school districts to conduct exit interviews with students who declare their intent to terminate school enrollment.

B. EFFECT OF PROPOSED CHANGES:

ABSENCES AND TARDINESS:

Background Information:

Florida law grants district school boards authority to enforce attendance laws.[1] Section 1003.23(1) requires that attendance of all public K-12 students be recorded and reported. Public schools are required to record the daily presence, absence, or tardiness of each student and maintain attendance records during the 180 day school year.[2] However, there is no express guidance in law that grants school district's the authority to record unexcused accumulated tardies as unexcused absences.

Bill's Effect:

House bill 403 specifies that district school boards may establish student attendance policies that allow accumulated unexcused tardies and early departures from school to be counted as unexcused absences.

COMPULSORY SCHOOL ATTENDANCE:

Background Information:

Compulsory school attendance refers to the minimum and maximum ages in which students must attend school. Current Florida Law provides that the compulsory school attendance minimum age includes all children who are either six years of age, who will be six years old by February 1 of any school year, or who are older than six years of age but who have not attained the age of sixteen years.[3]

In Florida, a student may terminate school enrollment at age sixteen. Such students must file a formal declaration of intent to terminate enrollment with the district school board. The district must notify the student's parent upon receipt of the student's declaration. The student and the student's parent must sign an acknowledgment that terminating school enrollment is likely to impact the student's future earning potential.[4]

Current law states that "a student who attains age sixteen years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board."[5] Some students simply stop attending school without filing a formal declaration. Districts have expressed concern that they are not specifically authorized to compel those students to formally withdraw.

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1 Section 1003.02(1)(b), F.S.

2 State Board of Education Rule 6A-1.044, Pupil Attendance Records.

3 Section 1003.21(1)(a)1., F.S.

4 Section 1003.21(1)(c), F.S.

5 Id.

Bill's Effect:

The bill clarifies existing law by stating that public school students sixteen years of age or older who have not graduated from high school remain subject to compulsory school attendance until they file a formal declaration of intent to terminate school enrollment.

The bill also requires school districts to conduct an exit interview with each student who terminates school enrollment to ascertain the reasons for the student's decision and actions that could be taken to keep the student in school. The district must inform students of educational options that are available to continue their education. To provide policy makers with data on students' reasons for terminating school enrollment, each student must complete a survey designed by the DOE.

ENFORCEMENT OF SCHOOL ATTENDANCE:

Background information:

Florida law provides extensive measures for enforcing school attendance. Section 1003.26, F.S. grants district school superintendents the authority to enforce school attendance. Each superintendent is responsible for recommending attendance policies and procedures to the district school board. District attendance policies must include the following:[6]

- Procedures for contacting parents regarding each student absence;
- Procedures for parents to justify each unexcused absence;
- Procedures for tracking student absences and identifying and preventing the development of patterns of nonattendance; and
- Procedures for referring a student's case to the school's child study team (CST) if the student is identified as having established a pattern of non-attendance (defined as five unexcused absences in a calendar month or ten unexcused absences in a ninety-day periods).

Upon referring the case to a CST, the team meets with the student's parent to identify potential remedies for the student's nonattendance in school. If this initial meeting does not resolve the problem the CST must determine and implement appropriate interventions. After all reasonable measures by the CST to resolve the problem have failed the CST must contact the district superintendent.

Parents who refuse to participate in remedial strategies recommended by the CST may appeal to the district school board. If the board determines that the strategies proposed by the CST are appropriate, and the parent still refuses to cooperate, the school superintendent may seek criminal prosecution against the parent for noncompliance with compulsory school attendance.[7]

Similarly, students who refuse to comply with attempts to enforce school attendance must be referred by the district superintendent or student's parent to a Department of Juvenile Justice case staffing committee. The school superintendent may also file a truancy petition under s. 984.151, F.S.[8]

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6 Section 1003.26(1)(a),(b) and (c), F.S.

7 Section 1003.26(1)(e), F.S.

8 Section 984.151, F.S., permits the superintendent to file a truancy petition when the child has more than 15 unexcused absences in a 90-calendar-day period or after a CST has acted pursuant to s. 1003.26(1), F.S., and the child has either: (a) five unexcused absences, or absences for which the reasons are unknown within one calendar month; or (b) ten unexcused absences, or absences for which the reasons are unknown within a 90-calendar-day period. A court must hear the petition within 30 days and if it finds that a child has missed any of the alleged days, it must order the child to attend school and the parent/guardian to ensure such attendance. The court is also permitted to order other sanctions for the child and parent that include classes and counseling. The court is required enforce parent/guardian compliance with its order through its contempt power. If a child fails to comply with the court's order, the child's case must be referred to a case staffing committee with a recommendation to file a child-in-need-of-services petition.

Section 1003.27, F.S. requires each school principal or designee to notify the district school board of each minor student accumulating 15 unexcused absences in a period of 90 calendar days or who drop out of school. The district school superintendent must provide the names and identifying information of these students to the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV may not issue a driver license or learner permit, or may suspend the driving privileges of any reported student until the student has satisfied regular school attendance requirements as outlined in s 322.091, F.S.[9]

Bill's Effect:

The bill provides that district school superintendents' responsibilities include supporting local law enforcement agencies in enforcing school attendance.

The bill specifies that district attendance policies may allow a student with a lesser number of absences than currently provided in law to be referred to a school CST. The bill also revises the current list of optional interventions and requires CSTs to implement:

- Frequent attempts to communicate with parents;
- Evaluating for alternative ed programs; and
- Attendance contracts.

The bill provides that a CST may implement other interventions to address a student's nonattendance, including referral to other agencies for family services and a recommendation that a truancy petition be filed by the superintendent.

C. SECTION DIRECTORY:

Section 1. Amends s. 1003.02, F.S.; providing that a school district may adopt school attendance policies that address accumulated tardies and count them as unexcused absences; providing that a school district may adopt policies regarding referral to a child study team.

Section 2. Amends s. 1003.21, F.S.; providing that students over age sixteen who have not graduated from high school remain subject to compulsory school attendance until they file a formal declaration of intent to terminate school enrollment.

Section 3. Amends 1003.26, F.S.; providing that district school superintendent responsibilities include supporting law enforcement efforts to enforce school attendance; revising required child study team interventions.

Section 4. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

9 Florida Department of Education, Attendance and Enrollment, Frequently Asked Questions available at http://www.fldoe.org/faq/faq.asp?Dept=107&Cat=54.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the PreK-12 Committee adopted a strike-all amendment. The strike-all differs from the original bill as follows.

- The original bill amended s. 1003.21, F.S. authorizing a school district to raise the compulsory school attendance age to eighteen. The strike-all specifies that students sixteen years or older remain subject to compulsory school attendance until they file a formal declaration and adds exit interview procedures.

- The original bill amended s. 1003.23, F.S. to require that school attendance records document tardiness. The strike-all amends s. 1003.02 to authorize districts to adopt policies that address accumulated student tardiness and govern the timing for referring a student to a child study team.

- The original bill amended 1003.26, F.S. to remove enforcement of school attendance from superintendent's responsibilities. The strike-all restores this aspect of superintendent authority and adds the responsibility to support law enforcement agencies' enforcement of school attendance.

- Sections of the original bill that conformed cross references were removed.

This bill analysis reflects the bill as amended.

CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to school attendance; amending s. 1003.02, F.S.; authorizing district school board attendance policies to allow accumulated tardies and early departures to be recorded as unexcused absences; authorizing district school board policies for student referral to a child study team under certain circumstances; amending s. 1003.21, F.S.; providing that students who have attained 16 years of age and have not graduated are subject to compulsory school attendance under certain circumstances; requiring student exit interviews prior to terminating school enrollment; amending s. 1003.26, F.S.; providing district school superintendent's responsibility to support local law enforcement agencies in enforcing school attendance; providing required and authorized child study team interventions; authorizing visits by school representatives; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) of section 1003.02, Florida Statutes, is amended to read:

1003.02 District school board operation and control of public K-12 education within the school district.--As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following fields:

(b) Enforcement of attendance laws.--Provide for the enforcement of all laws and rules relating to the attendance of students at school. District school boards are authorized to establish policies that allow accumulated unexcused tardies, regardless of when they occur during the school day, and early departures from school to be recorded as unexcused absences. District school boards are also authorized to establish policies

that require referral to a school's child study team for students who have fewer absences than the number required by s. 1003.26(1)(b).

Section 2. Paragraph (c) of subsection (1) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.--

(1)

(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district must notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's guidance counselor or other school personnel must conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student must be informed of opportunities to continue his or her education in a different environment, including, but not limited to, adult education and GED test preparation. Additionally, the student must complete a survey in

a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

Section 3. Section 1003.26, Florida Statutes, is amended to read:

1003.26 Enforcement of school attendance.--The Legislature finds that poor academic performance is associated with nonattendance and that school districts ~~schools~~ must take an active role in promoting and enforcing attendance as a means of improving student ~~the~~ performance ~~of many students~~. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board ~~policies and procedures to ensure~~ that require public schools to respond in a timely manner to every unexcused absence, and every ~~or~~ absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall ~~must~~ require the ~~each~~ parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature

finds that early intervention in school attendance ~~matters~~ is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) CONTACT, REFER, AND ENFORCE.--

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies, and the principal shall notify the district school

superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following ~~interventions that best address the problem. The interventions may include, but need not be limited to~~:

1. Frequent attempts at communication between the teacher and the family.~~;~~

~~2. Changes in the learning environment;~~

~~3. Mentoring;~~

~~4. Student counseling;~~

~~5. Tutoring, including peer tutoring;~~

~~6. Placement into different classes;~~

2.~~7.~~ Evaluation for alternative education programs.~~;~~

3.~~8.~~ Attendance contracts.~~;~~

~~9. Referral to other agencies for family services; or~~

~~10. Other interventions, including, but not limited to, a truancy petition pursuant to s. 984.151.~~

The child study team may, but is not required to, implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition pursuant to s. 984.151.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent may appeal to the district school board. The district school board may provide a hearing officer, and the hearing officer shall make a recommendation for final action to the district school board. If the district school board's final determination is that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, the district school superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f)1. If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent shall provide the parent a copy of s. 1002.41 and the accountability requirements of this paragraph. The district school superintendent shall also refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent from a district list of all home educators who have conducted a home education program for at least 3 years and who have indicated a willingness to serve on the committee. The home education review committee shall review the portfolio of the student, as defined by s. 1002.41, every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance with s. 1002.41(1)(b). The first portfolio review must occur within the first 30 calendar days of the

establishment of the program. The provisions of subparagraph 2. do not apply once the committee determines the home education program is in compliance with s. 1002.41(1)(b).

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the definition of "regular school attendance" under s. 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s. 1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(b).

(g) If a student subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent or the district school superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the district school superintendent or

his or her designee may file a truancy petition pursuant to the procedures in s. 984.151.

(2) GIVE WRITTEN NOTICE.--

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) RETURN STUDENT TO PARENT.--A designated school representative may ~~shall~~ visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not enrolled or is absent from school during school hours without an excuse, and, when the student is found, shall

return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

(4) REPORT TO APPROPRIATE AUTHORITY.--A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(5) RIGHT TO INSPECT.--A designated school representative shall have the right of access to, and inspection of, establishments where minors may be employed or detained only for the purpose of ascertaining whether students of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the appropriate authority.

Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 605 CS Public Records
SPONSOR(S): Planas
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1320

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	7 Y, 0 N, w/CS	Williamson	Williamson
2) Juvenile Justice Committee		White	White
3) State Administration Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates a public records exemption for certain identification and location information for current or former Department of Juvenile Justice (DJJ) personnel. It also creates a public records exemption for certain identification and location information regarding the spouse and children of DJJ personnel. The exemption only applies if the DJJ personnel provides a written statement that he or she has made reasonable efforts to protect such information from public access via other means.

This bill provides for future review and repeal of the exemption and provides a statement of public necessity.

The bill does not grant rule-making authority to any administrative agency.

The bill could have a minimal fiscal impact on state and local governments.

The bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill decreases access to public records.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law provides a number of public records exemptions for certain identifying and location information regarding police officers, child protective service investigators, firefighters, judges, and attorneys.[1] The exemptions also protect identifying and location information regarding the spouses and children of such employees.[2] There is, however, no such exemption for employees of juvenile detention facilities.

Effect of Bill

The bill creates a public records exemption for current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, and rehabilitation therapists of the Department of Juvenile Justice (DJJ personnel). The following information is made exempt[3] from public records requirements:

- Home addresses, telephone numbers, and photographs of DJJ personnel;
- Names, home addresses, telephone numbers, and places of employment of the spouse and children of DJJ personnel; and
- Names and locations of schools and day care facilities attended by the children of DJJ personnel.

The exemption only applies if the DJJ personnel provides a written statement that he or she has made reasonable efforts to protect such information from access via other means available to the public.

An agency, other than the employing agency, who is the custodian of such information must maintain the exempt status of that information only if such personnel or his or her employer submits a written request to the custodial agency.

This bill provides for future review and repeal of the exemption on October 2, 2011, pursuant to the Open Government Sunset Review Act.[4] It also provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., to create a public records exemption for DJJ personnel.

Section 2 reenacts s. 409.2577, F.S., to incorporate the amendment made to s. 119.071, F.S.

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[1] Section 119.071(4)(d), F.S.

[2] *Id.*

[3] There is a difference between records that are exempt from public records requirements and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such record cannot be released by an agency to anyone other than to the persons or entities designated in the statute. *See* Attorney General Opinion 85-62. If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances. *See Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).

[4] Section 119.15, F.S.

Section 3 provides a public necessity statement.

Section 4 provides an October 1, 2006, effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

   See "FISCAL COMMENTS."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   See "FISCAL COMMENTS."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a fiscal impact on state and local governments, because staff responsible for complying with public records requests will require training related to the newly created public records exemption. In addition, state and local governments could incur costs associated with redacting the exempt DJJ personnel information prior to releasing a record.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   Vote Requirement
   Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement
Article I, s. 24(c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments – Written Statement and Reasonable Efforts
The bill requires DJJ personnel to submit a written statement indicating that they have made reasonable efforts to protect the exempt information from public access via other means. The term "reasonable efforts" is not defined and thus, it is unclear precisely what efforts are required. Examples of such efforts might include requiring that the person have protected his or her personal information on the Internet, at county and city offices, and in the telephone book.

Further, of the categories of employees who are provided this same public records exemption, only guardian ad litems have been required to provide a similar statement.[5] In contrast, law enforcement, correctional, and correctional probation officers, firefighters, judges, and specified employees of the Departments of Health and Children and Family Services,[6] who have this same public records exemption, are not required to submit a writing documenting the undefined "reasonable efforts." The writing requirement places DJJ personnel in the minority and creates an additional burden on such personnel in order to protect access to their identification and location information.

Other Comments – Public Records Law
Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is further addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act[7] provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Governmental Operations Committee adopted an amendment and reported the bill favorably with committee substitute. The amendment:

- Removed the duplicative exemption for social security numbers.
- Removed the exemption for the photograph of a spouse or child of DJJ personnel, because it was unclear whether the photographs were collected by the employer.
- Conformed the public necessity statement to the exemption.

[5] Section 119.071(4)(d)6., F.S., public records exemption for current and former guardian ad litems.
[6] Section 119.071(4)(d)1., F.S.
[7] Section 119.15, F.S.

CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for the home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, and rehabilitation therapists of the Department of Juvenile Justice, the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel; providing a condition precedent to the granting of such exemption; providing for review and repeal;

reenacting s. 409.2577, F.S., relating to disclosure of information to the parent locator service of the Department of Children and Family Services, for the purpose of incorporating the amendment to s. 119.071, F.S., in a reference thereto; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.--

(4) AGENCY PERSONNEL INFORMATION.--

(d)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

facilities attended by the children of such personnel are exempt from s. 119.07(1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from s. 119.07(1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant United States attorneys; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former United States attorneys and assistant United States attorneys; and the names and locations of schools and day care facilities attended by the children of current or former United States attorneys and assistant United States attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15

and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; and the names and locations of schools and day care facilities attended by the children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

5. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance

with s. 119.15 and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6. The home addresses, telephone numbers, places of employment, and photographs of current or former guardians ad litem, as defined in s. 39.820, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

7. The home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, and rehabilitation therapists of the Department of Juvenile Justice, the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1)

and s. 24(a), Art. I of the State Constitution, if the Department of Juvenile Justice personnel member provides a written statement that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

8.~~7.~~ An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., ~~or~~ subparagraph 6., or subparagraph 7. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., ~~or~~ subparagraph 6., or subparagraph 7. shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

Section 2. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, section 409.2577, Florida Statutes, is reenacted to read:

409.2577 Parent locator service.--The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for

support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.071(4)(d) is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. The department shall, upon request, make information available only to public officials and agencies of this state; political subdivisions of this state, including any agency thereof

providing child support enforcement services to non-Title IV-D clients; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39. If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the Department of Children and Family Services and the Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 3. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, and rehabilitation therapists of the Department of Juvenile Justice, the names, home addresses, telephone numbers, and places of employment of spouses and children of such

personnel, and the names and locations of schools and day care facilities attended by the children of such personnel be made exempt from public records requirements if the Department of Juvenile Justice personnel member seeking the exemption provides a written statement that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public. This exemption is justified because, if such information were not made exempt from public records requirements, a juvenile probation officer, juvenile probation supervisor, detention superintendent, assistant detention superintendent, senior juvenile detention officer, juvenile detention officer supervisor, juvenile detention officer, house parent, house parent supervisor, group treatment leader, group treatment leader supervisor, or rehabilitation therapist of the Department of Juvenile Justice or his or her family could be harmed or threatened with harm by a juvenile defendant or by a friend or family member of a juvenile defendant.

Section 4. This act shall take effect October 1, 2006.

JUVENILE JUSTICE COMMITTEE

AMENDMENT PACKET

April 4, 2006
10:15-11:00 AM
214 Capitol

Allan G. Bense
Speaker

Faye B. Culp
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 27**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Juvenile Justice Committee

Representative Antone offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (3) and (7) of section 985.04, Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.--

(3)(a) Except as provided in subsections (2), (4), (5), and (6), and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department ~~of Juvenile Justice~~, the Parole Commission, the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department ~~of Juvenile Justice~~ and its designees, the Department of Corrections, the Parole Commission, law enforcement agents, school superintendents and their designees, the principal of a private school attended by the juvenile, any licensed

professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the teacher's classroom of a juvenile who has been placed in a probation or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(b) The department shall disclose to the school superintendent, and the principal of a private school attended by the child, the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board or of a private school who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of

the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7)(a) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools if the child attends public school, or the principal of a private school attended by the child, that the child is alleged to have committed the delinquent act.

(b) Notwithstanding paragraph (a) or any other provision of this section, when a child of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney shall notify the superintendent of schools if the child attends public school, or the principal of a private school attended by the child, ~~the child's school~~ that the child has been charged with such felony or delinquent act. The information obtained by the superintendent of schools or private school principal pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the public school of the child. Public and private school principals ~~The principal~~ must immediately notify the child's immediate classroom teachers. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 1006.09(1)-(4).

Section 2. Subsection (1) of section 985.207, Florida Statutes, is amended to read:

985.207 Taking a child into custody.--

(1) A child may be taken into custody under the following circumstances:

(a) Pursuant to an order of the circuit court issued under this part, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest. If such delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the arresting authority shall immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child and the principal of a private school attended by the child. Such notification shall include other education providers such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools. The information obtained by the superintendent of schools or a private school principal pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the child's public school, or as otherwise provided by law. Public and private school principals ~~The principal~~ must immediately notify the child's immediate classroom teachers. Information provided by an arresting authority pursuant to this paragraph may not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.

(c) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, home detention, post commitment probation, or conditional release supervision, has absconded from

nonresidential commitment, or has escaped from residential commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215.

Section 3. Subsection (6) is added to section 985.21, Florida Statutes, to read:

985.21 Intake and case management.—

(6) Subject to appropriation, the department, as part of its intake and case management system under this section, shall:

(a) Establish access to databases maintained by the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security, which permit law enforcement agencies to screen alien records and immigration information.

(b) Screen each child brought into intake to determine the child's citizenship based upon government documentation. If the department determines that the child is not a United States citizen or if the department is unable to determine whether the child is a United States citizen, the department shall utilize the databases under paragraph (a) to determine the child's citizenship and whether he or she is lawfully present in the United States.

(c) The department shall notify the appropriate authorities within the United States Department of Homeland Security of any child:

1. Who is alleged pursuant to probable cause affidavit to have committed an act that would be crime if committed by an adult and for whom the department, after the screening required in paragraph (b): is unable to determine whether the child is

lawfully present in the United States; or has determined that the child is not lawfully present in the United States.

2. Who has been found to have committed an act that would be a crime if committed by an adult and for whom the department after the screening required in paragraph (b): is unable to determine whether the child is lawfully present in the United States; has determined that the child is not lawfully present in the United States; or has determined that the child is a lawful alien if the crime committed by the child results in classification of the child as a deportable alien under the Immigration and Naturalization Act of 1952 (8 U.S.C.A. §§ 1101 et seq.), as amended or as may be amended.

(d) The department shall maintain information collected under this subsection in a centralized database and shall establish procedures to make this information available to federal, state, and local law enforcement agencies and the state court system.

(e) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

Section 4. Subsection (11) of section 985.215, Florida Statutes, is amended to read:

985.215 Detention.--

(11)(a) When a juvenile sexual offender is placed in detention, detention staff shall provide appropriate monitoring and supervision to ensure the safety of other children in the facility.

(b) When a juvenile sexual offender, pursuant to this subsection, is released from detention or transferred to home detention or nonsecure detention, detention staff shall immediately notify the appropriate law enforcement agency and

school personnel at the public or private school attended by the offender.

Section 5. Subsection (4) of section 985.228, Florida Statutes, is amended to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.--

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a probation program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. If the child is attending public or private school and the court finds that the victim or a sibling of the victim in the case was assigned to attend or is eligible to attend the same school as the child, the court order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of

delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

Section 6. Paragraph (d) of subsection (1) of section 985.23, Florida Statutes, is amended to read:

985.23 Disposition hearings in delinquency cases.--When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(1) Before the court determines and announces the disposition to be imposed, it shall:

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case. If the child is attending or is eligible to attend public <u>or private</u> school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court shall, on its own motion or upon the request of any party or any parent or legal guardian of the victim, determine whether it is appropriate to enter a no contact order in favor of the victim or a sibling of the victim. If appropriate and acceptable to the victim and the victim's parent or parents or legal guardian, the court may reflect in the written disposition order that the victim or the victim's parent stated in writing or in open court that he or she did not object to the offender being permitted to attend the same school or ride on the same school bus as the victim or a sibling of the victim.

It is the intent of the Legislature that the criteria set forth in subsection (2) are general guidelines to be followed at the discretion of the court and not mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this section.

Section 7. Subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.--

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a probation program or a postcommitment probation program under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. If the child is attending or is eligible to attend public <u>or private</u> school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding

pursuant to the proceedings described in s. 985.23(1)(d). Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of postcommitment probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of probation or postcommitment probation. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of probation or

postcommitment probation, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation or postcommitment probation, the court shall enter an order revoking, modifying, or continuing probation or postcommitment probation. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation or postcommitment probation, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the department at a restrictiveness level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is eligible to attend public or private school following commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d). If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the department, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be

the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the department for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from

engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the department for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(b) When any child is found by the court to have committed a delinquent act and is placed on probation, regardless of adjudication, under the supervision of or in the temporary legal custody of the Department of Juvenile Justice, the court shall order the parents of such child to pay fees to the department as provided under s. 985.2311.

(c) Any order made pursuant to paragraph (a) shall be in writing as prepared by the clerk of court and may thereafter be modified or set aside by the court.

(d) Any commitment of a delinquent child to the department must be for an indeterminate period of time, which may include periods of temporary release; however, the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense, except that the duration of a

minimum-risk nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. The duration of the child's placement in a commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's treatment plan progress and adjustment-related issues shall be reported to the court quarterly, unless the court requests monthly reports. The child's length of stay in a commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in the program shall not be extended for purposes of sanction or punishment. Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's treatment plan progress and adjustment-related issues must be communicated to the court at the time the department requests the court to consider releasing the child from the commitment program. Notwithstanding s. 743.07 and this subsection, and except as provided in ss. 985.201 and 985.31, a child may not be held under a commitment from a court under this section after becoming 21 years of age. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release

status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

(e) In carrying out the provisions of this part, the court may order the natural parents or legal custodian or guardian of a child who is found to have committed a delinquent act to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child or to enhance their ability to provide the child with adequate support, guidance, and supervision. The court may also order that the parent, custodian, or guardian support the child and participate with the child in fulfilling a court-imposed sanction. In addition, the court may use its contempt powers to enforce a court-imposed sanction.

(f) The court may at any time enter an order ending its jurisdiction over any child.

(g) Whenever a child is required by the court to participate in any work program under this part or whenever a child volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, either as an alternative to monetary restitution or as a part of the rehabilitative or probation program, the child is an employee of the state for the purposes of liability. In determining the child's average weekly wage unless otherwise determined by a specific funding program, all remuneration received from the employer is a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(h) The court may, upon motion of the child or upon its own motion, within 60 days after imposition of a disposition of commitment, suspend the further execution of the disposition and place the child in a probation program upon such terms and conditions as the court may require. The department shall forward to the court all relevant material on the child's progress while in custody not later than 3 working days prior to the hearing on the motion to suspend the disposition.

(i) The nonconsent of the child to commitment or treatment in a substance abuse treatment program in no way precludes the court from ordering such commitment or treatment.

(j) If the offense committed by the child was grand theft of a motor vehicle, the court:

1. Upon a first adjudication for a grand theft of a motor vehicle, may place the youth in a boot camp, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 50 hours of community service.

2. Upon a second adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudication, may place the youth in a boot camp, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 100 hours of community service.

3. Upon a third adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudications, shall place the youth in a boot camp or other treatment program, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 250 hours of community service.

Section 8. Paragraph (f) of subsection (4) of section 985.233, Florida Statutes, is amended to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.--

(4) SENTENCING ALTERNATIVES.--

(f) School attendance.--If the child is attending or is eligible to attend public or private school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.23(1)(d).

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 9. Paragraph (1)(d) and subsection (6) of section 985.308, Florida Statutes, are amended to read:

985.308 Juvenile sexual offender commitment programs; sexual abuse intervention networks.--

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(d) Providing notification to the public or private school to which the juvenile sexual offender is returning, the parents or legal guardians of the victim, and law enforcement, when a juvenile sexual offender returns into the community.

(6) The department shall establish protocol and procedures to notify public and private schools, the appropriate law

enforcement agencies, and the court when a juvenile sexual offender returns to the community.

Section 10. This act shall take effect October 1, 2006.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

A bill to be entitled

An act relating to juvenile delinquents; amending s. 985.04, F.S.; authorizing disclosure of specified confidential juvenile records to private school principals; requiring the Department of Juvenile Justice, law enforcement officers, and state attorneys to provide notice to private school principals of specified juvenile offenders; providing criminal penalties for a private school employee who improperly discloses specified confidential information; requiring principals to notify classroom teachers of specified information; amending s. 985.207, F.S.; requiring the arresting authority to provide notice to private school principals of specified juvenile offenders; requiring principals to notify classroom teachers of specified information; amending s. 985.21, F.S.; requiring the department, subject to appropriation, to establish access to federal immigration databases; requiring the department to screen each child brought into intake to determine his or her citizenship; requiring the department to screen specified children in federal immigration databases to determine citizenship and whether they are lawfully present in this country; requiring the department to notify appropriate authorities within the federal Department of Homeland Security of specified children whose citizenship cannot be determined, who are not lawfully present in this country, and who are deportable aliens; requiring the department to maintain

citizenship information in a centralized database and to share that information with specified entities; requiring the department to adopt rules; amending s. 985.215, F.S.; requiring detention staff to notify public and private school personnel of a juvenile sexual offender's release; amending ss. 985.228, 985.23, 985.231, and 985.233, F.S.; providing for no contact orders in cases where the victim and juvenile offender are, or may be, attending the same public or private school; amending s. 985.308, F.S.; requiring notification of public and private schools to which a juvenile sexual offender is returning; requiring the department to establish procedures for such notice; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **CS/HB 605**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Juvenile Justice Committee

Representative Culp offered the following:

Amendment (with title amendment)

Remove line(s) 157-261 and insert:

group treatment leaders, group treatment leader supervisors, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice, the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

8.~~7.~~ An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., ~~or~~ subparagraph 6., or subparagraph 7. and that is not the employer of the officer, employee, justice, judge, or other person

specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., ~~or~~ subparagraph 6., or subparagraph 7. shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

Section 2. For the purpose of incorporating the amendment made by this act to section 119.071, Florida Statutes, in a reference thereto, section 409.2577, Florida Statutes, is reenacted to read:

409.2577 Parent locator service.--The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.071(4)(d) is not required to be disclosed, and except that confidential taxpayer information possessed by the

Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. The department shall, upon request, make information available only to public officials and agencies of this state; political subdivisions of this state, including any agency thereof providing child support enforcement services to non-Title IV-D clients; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39. If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the Department of Children and Family Services and the Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 3. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice, the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel be made exempt from public records requirements. This exemption is justified because, if such information were not made exempt from public records requirements, a juvenile probation officer, juvenile probation supervisor, detention superintendent, assistant detention superintendent, senior juvenile detention officer, juvenile detention officer supervisor, juvenile detention officer, house parent, house parent supervisor, group treatment leader, group treatment leader supervisor, rehabilitation therapist or social services counselor of the Department of Juvenile Justice or his or her

========== T I T L E A M E N D M E N T ==========

Remove line(s) 16-23 and insert:

treatment leaders, group treatment leader supervisors, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice, the names, home

addresses, telephone numbers, and places of employment of spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel; providing for review and repeal;